IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 21129 OF 2001

Date: 15.11.2005

BETWEEN:

Smt. Kolanupaka Soudamini

.... PETITIONER

And

1. The Joint Collector and Additional District Magistrate, Nalgonda District, Nalgonda, and others.

.... RESPONDENT

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 21129 OF 2001

ORDER:

The petitioner claims to be the owner and possessor of the land admeasuring Acs.7.19 guntas in S.Nos.147 to 149, situated at Kalwapally village, Munugodu Mandal, Nalgonda District. She assails the proceedings of the first respondent dated 18.6.2001 confirming the orders passed by the Revenue Divisional Officer (RDO) on 7.8.2000 ordering correction of record of rights (ROR) duly deleting the name of the petitioner and entering the names of respondents 3 to 5 herein.

The fact of the matter in brief is that the petitioner herein, alleging that she is the owner and possessor of the land, filed O.S.No.1670 of 1989 on the file of the Court of the District Munsiff, Nalgonda, for perpetual injunction against the predecessor in title of respondents 3 to 5, namely, Parne Ranga Reddy. The trial Court dismissed the suit on 1.7.1994. The first appeal filed by the petitioner being A.S.No.32 of 1994 was, however, allowed by the Court of the District Judge, Nalgonda on 14.8.1995. Parne Ranga Reddy, who was the sole defendant in O.S.No.1670 of 1989 (father of respondents 4 and 5 and husband of respondent No.3) then approached this Court by filing S.A.No.688 of 1995. It appears, Parne Ranga Reddy, while the matter was pending in the civil Court, made an application to the RDO, Nalgonda, the second respondent herein, on 19.10.1993 for correction of entries in the revenue records in

which the name of the petitioner was mentioned as the owner and occupier. Presumably taking the same into consideration, this Court by an order dated 19.11.1997 while dismissing the Second Appeal gave a direction to the second respondent to conduct enquiry into the application made by Parne Ranga Reddy on 19.10.1993 and dispose of the same within a period of three months. This Court, however, did not interfere with the finding recorded by the Court of the District Judge, Nalgonda in A.S.No.32 of 1994 that the petitioner was in possession of the land.

The second respondent issued notices to the petitioner/her G.P.A., and Parne Ranga Reddy, and conducted enquiry on 16.2.1999 and allegedly conducted spot inspection. He also recorded the statements of Deepa Malla Reddy, Paduri Sreenivasa Reddy and Nannuri Vishnuvardhan Reddy, who are agriculturists having lands adjacent to the land in S.Nos.147 to 149, and issued a direction to the Mandal Revenue Officer (MRO) to delete the name of the petitioner duly substituting the name of Parne Ranga Reddy for the years 1973-74 to 1988-89. The RDO also concluded that Parne Ranga Reddy purchased the land and was in possession of the land admeasuring Acs.7.19 guntas. Against this order, the petitioner filed a revision petition under Section 9 of the A.P. Rights in Land and Pattadar Pass books Act, 1971 ('the Act' for brevity) read with Rule 23 of the A.P. Rights in Land and Pattadar Pass books Rules, 1989 ('the Rules' for brevity). The Joint Collector by the impugned order dated 18.6.2001 dismissed the revision observing that the second respondent conducted local enquiry and found Parne Ranga Reddy to be in possession of the land. Be it noted, while the matter was pending before the first respondent, Parne Ranga Reddy died and respondents 3 to 5 herein were came on record as the legal heirs of late Parne Ranga Reddy. The petitioner challenged the orders of the first respondent confirming that of second respondent, on various grounds, including the grounds of want of jurisdiction and arbitrariness.

The respondents have filed a detailed counter affidavit denying various allegations made by the petitioner in the affidavit accompanying the writ petition. It is alleged that respondents 3 to 5 are in possession of the lands and that they never interfered with the possession of the petitioner, that the petitioner obtained an order of injunction on the basis of wrong entries in revenue records, that as directed by this Court in S.A.No.688 of 1995 the second respondent conducted enquiry and after examining the witnesses, passed orders directing deletion of the name of the petitioner from the revenue records. It is further alleged that in view of the observations made in the Second Appeal, the judgment of the civil Court cannot be said to have become final.

The learned counsel for the petitioner Sri M. Rama Rao attacks the impugned order of the Joint Collector confirming that of the RDO on three grounds. He submits that under Section 3(3) of the Act the RDO has no jurisdiction to order rectification of entries, which were already entered in the ROR. Secondly, he submits that the legislature prescribed a period of one year for rectification of entries in the ROR, and therefore, after a lapse of 20 years it is not competent for the RDO to order rectification of entries pertaining to 1973-74 to 1988-89. Lastly, it is his submission that after appreciating the documentary evidence produced by the parties, the Civil Court granted decree for perpetual injunction, which will prevail over any finding of

the RDO, and therefore, the impugned order is unreasonable and arbitrary, besides being illegal.

The learned counsel for the respondents 3 to 5 Sri A. Rajasekhar Reddy submits that the question of jurisdiction and the question of limitation are not sustainable in view of the observations made by this Court in its judgment dated 19.11.1997 in S.A.No.688 of 1995. Secondly, he would urge that these grounds were not urged before the revenue authorities, and therefore, for the first time they cannot be permitted to be taken up in the writ petition. He would further urge that the decree passed by the Civil Court does not preclude the revenue authorities to conduct enquiry under the provisions of the Act. He placed reliance on the decision of the Supreme Court in **Roshan Deen v. Priteelal** and a decision of this Court in **Kondaveti Francis v. M. Ludramma**.

In view of the above submissions, two questions are required to be considered. One is the jurisdiction of the RDO, and the second one is the effect of observations made by this Court while dismissing the Second Appeal filed by the predecessor in title of
respondents 3 to 5.

The A.P. Rights in Land and Pattadar Pass Books Act, 1971 is a comprehensive legislation relating to rights in land and issue of pattadar passbooks/title deeds. Section 3 requires the competent authority, i.e., the MRO to prepare the ROR in respect of lands in every village containing, *inter alia* the names of persons, who are the owners, pattadars, mortgagees, occupants or tenants, and publish such ROR by way of a notification in A.P. Gazette or District Gazette. The same is considered to be final, subject to the right of appeal even to a person aggrieved by any such entry in the ROR. Sub-section (3) of Section 3 of the Act enables the competent authority or Recording Authority to order rectification of any entry in ROR, if an application is made within a period of one year from the date of notification under Section 3(2) of the Act. An order passed by the MRO under Section 3(3) of the Act is final, subject to provision of Rule 9 of the Rules. Insofar as any order passed by the MRO in relation to the powers conferred under sub-sections (1) and (2) of Section 3 of the Act, the Act provides for an appeal to RDO under Section 5(5) of the Act. Such an appeal has to be filed by the aggrieved person within a period of 60 days from the date of communication of the order. Section 9 of the Act confers power on the Joint Collector to call for the record of the Recording Authority or the RDO, either *suo motu* or on an application, and examine the regularity, correctness, legality or propriety of any decision taken by those authorities.

A reading of Sections 3(3), 5(5) and 9 of the Act would leave no doubt that under Section 3(3) of the Act the RDO is not competent to rectify the entries made in ROR by the Recording Authority. Such rectification can only be ordered by the Recording Authority himself. Indeed, the predecessor in title of respondents 3 to 5 made an application to the RDO for rectification of ROR in respect of S.Nos.147 to 149 by deleting the name of the petitioner and substituting his name. Such rectification can be ordered only by the MRO and therefore, the order passed by the RDO is *ex facie* without jurisdiction and illegal.

The second aspect of the matter is the effect of the observations made by this Court. In view of the admitted position that the petitioner's suit for perpetual injunction was decreed by the first appellate Court, and that the Second Appeal was also dismissed, the observations made by this Court in its judgment in Second Appeal cannot be read out of the context. The Court observations, especially the judgment of the first appellate Court granting a decree for perpetual injunction, as confirmed, must be understood as directing the RDO to dispose of the application of late Parne Ranga Reddy in accordance with law. The observation can never be taken as conferring the jurisdiction on RDO, which did not vest under the relevant legislation. In such a case, the only course that was available to the RDO was to send back the application to the MRO, but instead the RDO conducted an enquiry, including inspection, and recorded statements. Indeed, this Court while directing the RDO to dispose of the application made by late Parne Ranga Reddy within three months, made it clear that the entries in revenue records are *prima facie* held to be true. Further, it is not disputed that from 1973-74 to 1988-89 the name of the petitioner was entered in ROR and if any rectification is required, it ought to have been done only by the MRO, that too, after conducting enquiry into the application made within one year from the date of notifying ROR under Section 3(2) of the Act. In this case, late Parne Ranga Reddy made an application in October 2003, i.e., after a period of 20 years, and after a period of 20 years the revenue authorities would not have ordered for rectification. If a person is really aggrieved by such entries, the only remedy was to approach the Civil Court for declaration of title as provided under Section 8(2) of the Act.

It is no doubt true that as held by this Court in **Kondaveti Francis v. M. Ludramma** (supra) in the absence of any prohibition, the Civil Court's order does not preclude the revenue authorities from conducting enquiry under ROR. This Court in the said case observed as under.

> Merely because the Court granted an interim injunction in favour of the plaintiff in the absence of any order of stay, the revenue authorities are not precluded from discharging their functions in exercise of the powers conferred upon them by the A.P. Rights in Land and Pattadar Pass Books Act, 1971. The plaintiff, who is a party to the said proceedings and who availed the remedies of appeal and revision provided under the said statute, cannot now turn round and say that the said orders are not valid and binding on him.

The said case was dealing with an order of interim injunction. Therefore, the same cannot be taken as an authority enabling the revenue officials under ROR Act to take a different view when the civil Court has recorded a finding that the petitioner is *prima facie* in possession of the land and the said finding was also affirmed by this Court in Second Appeal. Therefore, this Court holds that the order of the Joint Collector, which has affirmed the order of the RDO, also suffers from illegality for the reasons pointed out hereinabove. The questions now considered are purely questions of law having regard to the provisions of the Act. Therefore, the

submission of the learned counsel for the respondents 3 to 5 that these questions are not raised before the revenue authorities, is misconceived. Even if these questions are not raised in a writ petition, it becomes all the more necessary to declare the correct law and give the relief to the person, who is the victim of incorrect application of law.

The Writ Petition, for the above reasons, is accordingly allowed and the impugned order of the Joint Collector in Case No.C3/JC/ROR/19/2000, dated 18.6.2001 is quashed. This Court, however, makes no order as to costs.

_____

(**V.V.S. RAO, J.)**

15th November, 2005

Js.